

DECISIONS TO BE MADE PRIOR TO AMENDMENTS OF STATE SPECIAL EDUCATION REGULATIONS BASED ON THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT OF 2004

The Individuals with Disabilities Education Act (IDEA) was amended in 2004. Because of changes in the federal law, our state administrative regulations contained in 707 KAR Chapter 1 will have to be revised. Most of the changes are necessary in order to conform to the new federal law. However, there are several areas of the federal law that require state regulations on the subject but give discretion to the states and consequently, decisions have to be made as to how to proceed. The following are the areas of IDEA that require states to make decisions as to what will best ensure an appropriate education for students with disabilities. Included in the last column are recommendations that represent at least a majority of the input from parents, teachers, administrators, students, KDE staff and others that were received through public forums and the electronic survey on the KDE web page.

Current State Regulation	Federal Statute	KDE Recommendations
707 KAR 1:310 Eligibility	Section 614 (6) lists new requirements for determining if a child has a specific learning disability . The proposed federal regulations have addressed the issue of statewide v. district-wide eligibility criteria by stating the state may establish statewide criteria.	Stakeholders have overwhelmingly stated that it would be better to have uniform statewide criteria for specific learning disability. If districts set their own criteria, it would be very confusing for serving students who transfer from one district to another. A Learning Disabilities (LD) Task Force, consisting of stakeholders from school districts, higher education and KDE, have been meeting to review research and make recommendations for uniform criteria for eligibility. The recommendations will be ready prior the drafting of revised state administrative regulations.
707 KAR 1:320 Individual education program	Decision point Section 614 (a) (1) (C) allows for a 60-day timeline from receipt of parent consent for initial	Decision point 707 KAR 1:320, Section 2 (2) states that "A Local Education Agency (LEA) shall ensure that within sixty (60) school days following the receipt of the parent consent for an initial evaluation of a child: (a) the

	<p>evaluation until the eligibility determination for the student, unless the state has adopted a different timeline. The federal law means calendar day.</p> <p>Decision point Section 614 (d) (1) (C) Federal law allows for an IEP team member to be excused from attending a meeting if the parents and LEA agree that attendance is not necessary because that member's curriculum area or related service is not being discussed or even if the member's area is to be discussed, that person can be excused if the parent and LEA agree and the member submits a report in writing to the meeting with their input on the development of the IEP.</p> <p>Decision point Section 614 (d) (1) (A) only requires benchmarks or short-term objectives for students "who take alternate assessments aligned to alternate achievement standards."</p>	<p>child will be evaluated; and (b) if the child is eligible, specially designed instruction and related services will be provided in accordance with the Individual Education Program (IEP)."</p> <p>Decision point 707 KAR 1:320, Section 3 does not allow for any member to be excused from the Admissions and Release Committee (ARC) meeting. It is recommended that the federal standard not be adopted because this change could prohibit a thorough discussion of the needs of the student by all staff working with that student. Schools that are successfully closing the achievement gap use the ARC meeting as an opportunity for real planning and discussion about the student's needs.</p> <p>Decision point 707 KAR 1:320, Section 5 requires benchmarks or short-term objectives for all students. It is recommended that the state regulations be amended to make it permissible to use benchmarks or short-term objectives if the ARC deems it appropriate. Many teachers may wish to use objectives because they allow teachers to put large tasks into manageable lessons. Additionally, there would still be requirements on collecting progress data and reporting on that progress.</p>
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	<p>Decision point Section 614 (d) (3) (C) allows changes to be made to an IEP without an ARC meeting.</p> <p>Decision point Section 614 (d) (1) (A) (i) (VIII) allows postsecondary transition planning to begin no later than the IEP developed when the child turns 16.</p>	<p>Decision point 707 KAR 1:320 does not allow for amending or revisions to the IEP without an ARC meeting to discuss the need for the changes. It is recommended that no major changes such as substantive changes to type, duration or amount of services or goals and objectives be made in an IEP without an ARC meeting. To allow such changes without an ARC meeting would inhibit the team approach to planning for the student that is a key component of the law and good practice.</p> <p>KDE will provide additional guidance on the meaning of “substantive changes”.</p> <p>Decision point 707 KAR 1:320, Section 6 now requires the process to begin at least when the child is 14 with a statement of transition services needs and the actual services to begin at least at age 16. It is recommended that this approach remain the same. There are already too many students with disabilities not successful in postsecondary life. To postpone the transition planning process could increase the number of students not making a successful transition.</p>
707 KAR 1:340 Procedural safeguards and state complaint procedures	<p>Decision point Section 615 (b) allows for a judge to appoint a surrogate but does not require it.</p>	<p>Decision point 707 KAR 1:340 requires a LEA to appoint a surrogate for any child that needs one. It is recommended that the regulation provision remain the same because it would require extensive training of judges regarding requirements for appointment of a surrogate. On the other hand, school districts already understand the need for surrogate parents, how to solicit and train them and when they must be appointed.</p>

	<p>Decision point Section 615 (k) (1) (G) allows school personnel to remove a child to an alternate placement for weapons, drugs or serious injury.</p>	<p>Decision point 707 KAR 1:340, Section (10) currently requires an ARC to make these decisions. It is recommended that the current state administrative regulations remain with the following additions: a) an explanation of steps that school personnel can take immediately to ensure the safety of students and staff, b) clarification of when school personnel may suspend or remove a student from school without an ARC process, and c) alternative means by which ARC meetings may be conducted, i.e., telephonic conferences, etc.</p>
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